

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 09-0082.02 Jery Payne

HOUSE BILL 09-1202

HOUSE SPONSORSHIP

Todd, Benefield, Middleton, Ryden

SENATE SPONSORSHIP

(None),

House Committees

Business Affairs and Labor
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF PERSONS WHO PROVIDE FOR THE**
102 **FINAL DISPOSITION OF DEAD HUMAN BODIES IN THE NORMAL**
103 **COURSE OF BUSINESS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires funeral establishments and crematories to be registered. Requires that a designee be appointed to ensure compliance with the mortuary science code. Sets standards for registration.

Prohibits using the following titles unless the person meets the following qualifications:

! A mortuary science practitioner requires a mortuary science

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

degree, passing the national board examination, and 2,000 hours of experience in the field;

! A funeral director requires 2,000 hours of experience and 50 funerals or graveside services directed;

! An embalmer requires 4,000 hours of experience and the embalming of at least 50 dead human bodies;

! A cremationist requires 500 hours of experience and the cremation of 100 dead human bodies.

Authorizes the executive director of the department of regulatory agencies (director) to discipline registrants for:

! Misstatements or omitted disclosures on an application;

! Being disciplined within the last 2 years in any state;

! Negligently violating the mortuary science code;

! Failing to comply with the standards of practice; or

! A pattern of unprofessional acts.

Requires disciplinary hearings to be conducted in accordance with the "State Administrative Procedure Act". Authorizes the director to investigate potential violations, administer oaths, issue subpoenas, and hear witnesses. Authorizes revocation and cease-and-desist orders. Allows the director to obtain a consultation or opinion from an appropriate professional organization or association of persons.

Grants the director rule-making authority. Grants the director fee-setting authority to offset the costs of implementing the act.

Authorizes the director to forward complaints to the district attorney, or to any government law enforcement agency, for prosecution. Authorizes the director to seek injunctions and contempt orders to enforce the act.

Establishes a sunset and review date of July 1, 2015.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** The introductory portion to 12-54-102, 12-54-102
3 (4), (8), and (12), the introductory portion to 12-54-102 (14), and
4 12-54-102 (14) (a) and (16), Colorado Revised Statutes, are amended, and
5 the said 12-54-102 is further amended BY THE ADDITION OF THE
6 FOLLOWING NEW SUBSECTIONS, to read:

7 **12-54-102. Definitions.** As used in this part ~~of~~ ARTICLE, unless the
8 context otherwise requires:

9 (4) "Cremation" OR "CREMATE" means the reduction of a dead

1 human body to essential elements through direct exposure to intense heat,
2 the processing of the remains, and the placement of the processed remains
3 in a cremated remains container.

4 (4.5) "CREMATION CONTAINER" MEANS A CONTAINER IN WHICH
5 THE DEAD HUMAN BODY IS TRANSPORTED TO THE CREMATORY AND
6 INTENDED TO BE PLACED IN THE CREMATION CHAMBER.

7 (4.7) "CREMATIONIST" MEANS A PERSON WHO CREMATES OR
8 PREPARES FOR CREMATION A DEAD HUMAN BODY.

9 (5.5) "DESIGNEE" MEANS AN INDIVIDUAL DESIGNATED BY A
10 FUNERAL ESTABLISHMENT WHO IS REGISTERED IN ACCORDANCE WITH
11 SECTION 12-54-110 OR 12-54-303.

12 (5.7) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF
13 REGISTRATIONS OR THE DIRECTOR'S DESIGNEE.

14 (8) "Embalmer" means any person who embalms, OR PREPARES
15 FOR EMBALMING, a dead human body. ~~for compensation.~~

16 (12) "Funeral establishment" means: ~~either or both of the~~
17 ~~following:~~

18 (a) An establishment that holds, cares for, or prepares a dead
19 human body prior to final disposition, including, but not limited to, a
20 crematory or embalming room; except that this paragraph (a) does not
21 apply to establishments in which individuals regularly die; ~~or~~

22 (b) An establishment that provides funeral goods or services to the
23 public; OR

24 (c) FACILITIES USED TO HOLD, CARE FOR, OR PREPARE A DEAD
25 HUMAN BODY PRIOR TO FINAL DISPOSITION; EXCEPT THAT THIS PARAGRAPH
26 (c) DOES NOT APPLY TO FACILITIES IN WHICH INDIVIDUALS REGULARLY DIE.

27 (14) "Funeral services" means: ~~any one or more of the following:~~

1 (a) Preparation of dead human bodies for final disposition;
2 EXCEPT THAT THIS PARAGRAPH (a) DOES NOT APPLY TO CREMATION;

3 (16) "~~Mortician~~" "MORTUARY SCIENCE PRACTITIONER" means a
4 person who ~~for compensation~~, DOES THE FOLLOWING OR OFFERS TO DO
5 THE FOLLOWING:

- 6 (a) Embalms OR CREMATES dead human bodies;
- 7 (b) Arranges, directs, or supervises funerals, memorial services,
8 or graveside services; or
- 9 (c) Prepares dead human bodies for final disposition.

10 [REDACTED]

11 **SECTION 2.** 12-54-104 (1) (c), (1) (e), (1) (g) (I), and (1) (h), the
12 introductory portion to 12-54-104 (1) (i), and 12-54-104 (1) (i) (I), (1) (i)
13 (VI), and (1) (i) (VII), Colorado Revised Statutes, are amended, and the
14 said 12-54-104 (1) (i) is further amended BY THE ADDITION OF THE
15 FOLLOWING NEW SUBPARAGRAPHS, to read:

16 **12-54-104. Unlawful acts.** (1) It is unlawful:
17 (c) For any public officer or employee ~~the official of any public~~
18 ~~institution, or any hospital, nursing home, physician, surgeon, funeral~~
19 ~~director, embalmer, mortician,~~ or any other person having a professional
20 relationship with the decedent to approve or cause the final disposition of
21 a dead human body in violation of this article;

22 (e) For a funeral director, ~~mortician~~ MORTUARY SCIENCE
23 PRACTITIONER, embalmer, ~~or~~ funeral establishment, OR FACILITY IN WHICH
24 PEOPLE REGULARLY DIE or such person's OR FACILITY'S agent to engage
25 in a business practice that interferes with the freedom of choice of the
26 general public to choose a funeral director, ~~mortician~~ MORTUARY SCIENCE
27 PRACTITIONER, embalmer, or funeral establishment;

1 (g) To transport or otherwise transfer by common carrier a dead
2 human body unless:

3 (I) A funeral director, MORTUARY SCIENCE PRACTITIONER, or
4 embalmer has embalmed or hermetically sealed the body for
5 transportation and complies with applicable common carrier law; or

6 ~~(h) For a funeral director, mortician, or embalmer to advertise as~~
7 ~~holding a degree or degree in mortuary science, certificate of registration,~~
8 ~~professional license, or professional certification issued by a state,~~
9 ~~political subdivision, or agency unless the person holds such degree,~~
10 ~~registration, license, or certification and it is current and valid at the time~~
11 ~~of advertisement. If a funeral director, mortician or embalmer advertises~~
12 ~~as holding a credential granted by a governmental entity, such person~~
13 ~~shall identify the jurisdiction that granted such credential in such~~
14 ~~advertisement. TO ADVERTISE AS HOLDING A DEGREE, A CERTIFICATE OF~~
15 ~~REGISTRATION, A PROFESSIONAL LICENSE, OR A PROFESSIONAL~~
16 ~~CERTIFICATION ISSUED BY A STATE, POLITICAL SUBDIVISION, OR AGENCY~~
17 ~~UNLESS THE PERSON HOLDS SUCH DEGREE, REGISTRATION, LICENSE, OR~~
18 ~~CERTIFICATION AND IT IS CURRENT AND VALID AT THE TIME OF~~
19 ~~ADVERTISEMENT;~~

20 (i) For ~~an embalmer,~~ A funeral director, ~~or mortician~~ MORTUARY
21 SCIENCE PRACTITIONER, OR EMBALMER to admit or permit any person to
22 visit the embalming, CREMATION, or preparation room during the time
23 ~~such~~ A body is being embalmed, CREMATED, or prepared for final
24 disposition, unless such person:

25 (I) Is a funeral director, MORTUARY SCIENCE PRACTITIONER,
26 CREMATIONIST, or embalmer;

27 (VI) Is a registered or licensed nurse ~~or~~ WITH A MEDICAL REASON

1 TO BE PRESENT;

2 (VII) Is a licensed physician or surgeon WITH A MEDICAL REASON
3 TO BE PRESENT;

4 (VIII) IS A TECHNICIAN WITH A CERTIFIED ANATOMICAL DONATION
5 ORGANIZATION WHO POSSESSES APPROPRIATE DOCUMENTATION OF A
6 POTENTIAL ORGAN OR TISSUE DONATION; OR

7 (IX) IS THE DIRECTOR OR THE DIRECTOR'S DESIGNEE.

8 **SECTION 3.** 12-54-104 (1), Colorado Revised Statutes, is
9 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

10 **12-54-104. Unlawful acts.** (1) It is unlawful:

11 (n) TO ENGAGE IN WILLFULLY DISHONEST CONDUCT OR COMMIT
12 NEGLIGENCE IN THE PRACTICE OF EMBALMING, FUNERAL DIRECTING, OR
13 PROVIDING FOR FINAL DISPOSITION THAT DEFRAUDS OR CAUSES INJURY OR
14 IS LIKELY TO DEFRAUD OR CAUSE INJURY.

15 **SECTION 4.** 12-54-107, Colorado Revised Statutes, is amended
16 to read:

17 **12-54-107. Violations and penalties.** Any person who violates
18 ~~the provisions of this part 1 OR PART 3 OF THIS ARTICLE~~ is guilty of a
19 misdemeanor and, upon conviction, shall be punished by a fine of not
20 more than five thousand dollars or by imprisonment in the county jail for
21 not more than twenty-four months or by both such fine and imprisonment.

22 **SECTION 5.** The introductory portion to 12-54-108 (4) and
23 12-54-108 (5), Colorado Revised Statutes, are amended to read:

24 **12-54-108. Exceptions - safe harbor.** (4) If a funeral director,
25 MORTUARY SCIENCE PRACTITIONER, or embalmer has acted in good faith,
26 the funeral director, MORTUARY SCIENCE PRACTITIONER, or embalmer may
27 rely on a signed statement from a person with the right of final disposition

1 under section 15-19-106, C.R.S., that:

2 (5) (a) A funeral director or ~~embalmer~~ MORTUARY SCIENCE
3 PRACTITIONER may dispose of cremated remains at the expense of the
4 person with the right of final disposition ~~three hundred sixty-five~~ ONE
5 ~~HUNDRED EIGHTY~~ days after cremation if the ~~funeral director~~ has PERSON
6 WAS given clear prior notice of this ~~provision~~ PARAGRAPH (a) and ~~has~~
7 ~~given such person~~ a reasonable opportunity to collect the cremated
8 remains, ~~if the funeral director or embalmer records~~ the exact location of
9 the disposition and the costs associated with the disposition ARE
10 RECORDED, and the recovery of the cremated remains is possible.
11 Recovery of costs shall be limited to a reasonable amount of the costs
12 actually expended by the funeral director OR MORTUARY SCIENCE
13 PRACTITIONER.

14 (b) If the person was cremated prior to July 1, 2003, and the
15 funeral director OR MORTUARY SCIENCE PRACTITIONER reasonably
16 attempts to notify the person with the right of final disposition of the
17 provisions of this subsection (5), the ~~funeral director may dispose of~~
18 cremated remains MAY BE DISPOSED OF in accordance with this subsection
19 (5) notwithstanding a failure to provide the notice of the provisions of this
20 subsection (5) to the person with the right of final disposition prior to
21 disposing of the remains.

22 **SECTION 6.** 15-19-103 (7) (b), Colorado Revised Statutes, is
23 amended to read:

24 **15-19-103. Definitions.** As used in this article, unless the context
25 otherwise requires:

26 (7) (b) "Third party" includes, but is not limited to, a funeral
27 director, ~~mortician~~ MORTUARY SCIENCE PRACTITIONER, mortuary,

1 crematorium, or cemetery.

2 **SECTION 7.** Article 19 of title 15, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION, CONTAINING
4 A RELOCATED PROVISION, to read:

5 **15-19-109. [Formerly 12-54-109] Effect of criminal charges.**

6 A person who has been arrested on suspicion of having committed, is
7 charged with, or has been convicted of, any felony offense specified in
8 part 1 of article 3 of title 18, C.R.S., involving the death of the deceased
9 person, shall not direct the final disposition of the deceased person or
10 arrange the ceremonies for the deceased person. If charges are not
11 brought, charges are brought but dismissed, or the person charged is
12 acquitted of the alleged crime before final disposition of the deceased
13 person's body, this section shall not apply.

14 **SECTION 8. Repeal of provision being relocated.** 12-54-109,
15 Colorado Revised Statutes, is repealed.

16 **SECTION 9.** Part 1 of article 54 of title 12, Colorado Revised
17 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
18 SECTIONS to read:

19 **12-54-110. Registration required.** (1) UNLESS PRACTICING AT
20 A REGISTERED FUNERAL ESTABLISHMENT PURSUANT TO THIS SECTION, A
21 PERSON SHALL NOT PRACTICE AS, OR OFFER THE SERVICES OF, A
22 MORTUARY SCIENCE PRACTITIONER, FUNERAL DIRECTOR, OR EMBALMER,
23 NOR SHALL THE FUNERAL ESTABLISHMENT SELL OR OFFER TO SELL
24 FUNERAL GOODS OR SERVICES TO THE PUBLIC.

25 (2) (a) EACH FUNERAL ESTABLISHMENT SHALL REGISTER WITH THE
26 DIRECTOR USING FORMS AS DETERMINED BY THE DIRECTOR. THE
27 REGISTRATION SHALL INCLUDE, WITHOUT LIMITATION, THE FOLLOWING:

1 (I) THE SPECIFIC LOCATION OF THE FUNERAL ESTABLISHMENT;

2 (II) THE FULL NAME AND ADDRESS OF THE DESIGNEE APPOINTED
3 PURSUANT TO SUBSECTION (3) OF THIS SECTION;

4 (III) THE DATE THE FUNERAL ESTABLISHMENT BEGAN DOING
5 BUSINESS; AND

6 (IV) A LIST OF EACH OF THE FOLLOWING SERVICES PROVIDED AT
7 EACH FUNERAL ESTABLISHMENT LOCATION:

8 (A) REFRIGERATING OR HOLDING DEAD HUMAN BODIES;

9 (B) EMBALMING DEAD HUMAN BODIES;

10 (C) TRANSPORTING DEAD HUMAN BODIES TO OR FROM THE
11 FUNERAL ESTABLISHMENT OR THE PLACE OF FINAL DISPOSITION; AND

12 (D) PROVIDING FUNERAL GOODS OR SERVICES TO THE PUBLIC.

13 (b) EACH FUNERAL ESTABLISHMENT REGISTRATION SHALL BE
14 RENEWED, ACCORDING TO A SCHEDULE ESTABLISHED BY THE DIRECTOR,
15 IN A FORM AS DETERMINED BY THE DIRECTOR.

16 (c) IF, AFTER INITIAL REGISTRATION, THE FUNERAL
17 ESTABLISHMENT PROVIDES A SERVICE LISTED IN SUBPARAGRAPH (IV) OF
18 PARAGRAPH (a) OF THIS SUBSECTION (2) THAT WAS NOT INCLUDED IN THE
19 INITIAL REGISTRATION, THE FUNERAL ESTABLISHMENT SHALL SUBMIT AN
20 AMENDED REGISTRATION WITHIN THIRTY DAYS AFTER BEGINNING TO
21 PROVIDE THE NEW SERVICE.

22 (d) IF, AFTER INITIAL REGISTRATION, THE FUNERAL
23 ESTABLISHMENT APPOINTS A NEW DESIGNEE, THE FUNERAL
24 ESTABLISHMENT SHALL SUBMIT AN AMENDED REGISTRATION WITHIN
25 THIRTY DAYS AFTER APPOINTING THE DESIGNEE.

26 (e) THE DIRECTOR MAY ESTABLISH REGISTRATION FEES, RENEWAL
27 FEES, AND DELINQUENCY FEES FOR REINSTATEMENT PURSUANT TO

1 SECTION 24-34-105, C.R.S. IF A FUNERAL ESTABLISHMENT FAILS TO
2 RENEW THE REGISTRATION IN ACCORDANCE WITH THE SCHEDULE
3 ESTABLISHED BY THE DIRECTOR, THE REGISTRATION SHALL EXPIRE.

4 (3) EACH FUNERAL ESTABLISHMENT SHALL APPOINT AN
5 INDIVIDUAL AS THE DESIGNEE OF THE FUNERAL ESTABLISHMENT.

6

7 (4) THE DESIGNEE SHALL REQUIRE EACH PERSON EMPLOYED AT
8 THE FUNERAL ESTABLISHMENT TO DEMONSTRATE EVIDENCE OF
9 COMPLIANCE WITH SECTION 12-54-111. THE DESIGNEE SHALL RETAIN THE
10 RECORDS OF SUCH EVIDENCE SO LONG AS THE PERSON IS EMPLOYED AT THE
11 FUNERAL ESTABLISHMENT.

12

13 **12-54-111. Title protection.** (1) A PERSON SHALL NOT
14 ADVERTISE, REPRESENT, OR HOLD ONESELF OUT AS OR USE THE TITLE OF
15 A MORTUARY SCIENCE PRACTITIONER UNLESS THE APPLICANT:

16 (a) HAS AT LEAST TWO THOUSAND HOURS PRACTICING OR
17 INTERNING AS A MORTUARY SCIENCE PRACTITIONER, INCLUDING, WITHOUT
18 LIMITATION, EXPERIENCE IN CREMATION AND EMBALMING;

19 (b) HAS GRADUATED WITH A DEGREE IN MORTUARY SCIENCE FROM
20 A SCHOOL OF HIGHER EDUCATION ACCREDITED BY THE AMERICAN BOARD
21 OF FUNERAL SERVICE EDUCATION OR ITS SUCCESSOR, IF THE SUCCESSOR IS
22 APPROVED BY THE DIRECTOR; AND

23 (c) HAS TAKEN THE MORTUARY SCIENCE TEST, KNOWN AS THE
24 NATIONAL BOARD EXAMINATION, ADMINISTERED BY THE INTERNATIONAL
25 CONFERENCE OF FUNERAL SERVICE EXAMINING BOARDS OR ITS SUCCESSOR,
26 IF THE SUCCESSOR IS APPROVED BY THE DIRECTOR, AND RECEIVED A
27 PASSING SCORE.

1 (2) A PERSON SHALL NOT ADVERTISE, REPRESENT, OR HOLD
2 ONESELF OUT AS OR USE THE TITLE OF A FUNERAL DIRECTOR UNLESS THE
3 APPLICANT:

4 (a) HAS AT LEAST TWO THOUSAND HOURS PRACTICING OR
5 INTERNING AS A FUNERAL DIRECTOR; AND

6 (b) HAS DIRECTED AT LEAST FIFTY FUNERALS OR GRAVESIDE
7 SERVICES.

8 (3) A PERSON SHALL NOT ADVERTISE, REPRESENT, OR HOLD
9 ONESELF OUT AS OR USE THE TITLE OF AN EMBALMER UNLESS THE
10 APPLICANT:

11 (a) HAS AT LEAST FOUR THOUSAND HOURS PRACTICING OR
12 INTERNING AS AN EMBALMER; AND

13 (b) HAS EMBALMED AT LEAST FIFTY DEAD HUMAN BODIES.

14 (4) FOR PURPOSES OF THIS SECTION, INTERN OR PRACTICE HOURS
15 FROM COLORADO OR ANY OTHER STATE SHALL MEET THE STANDARDS SET
16 BY THIS SECTION.

17 **12-54-112. Standards of practice - embalming - transporting.**

18 (1) A FUNERAL ESTABLISHMENT THAT PERFORMS EMBALMING
19 SHALL:

20 (a) MAINTAIN A SANITARY PREPARATION ROOM WITH SANITARY
21 FLOORING, DRAINAGE, AND VENTILATION;

22 (b) EMPLOY UNIVERSAL BIOLOGICAL HAZARD PRECAUTIONS;

23 (c) EMPLOY REASONABLE CARE TO MINIMIZE THE RISK OF
24 TRANSMITTING COMMUNICABLE DISEASES FROM DEAD HUMAN BODIES;

25 (d) BE EQUIPPED WITH INSTRUMENTS AND SUPPLIES NECESSARY TO
26 PROTECT THE HEALTH AND SAFETY OF THE PUBLIC AND EMPLOYEES OF THE
27 FUNERAL ESTABLISHMENT; AND

1 (e) TRANSPORT DEAD HUMAN BODIES IN A SAFE AND SANITARY
2 MANNER.

3 (2) A FUNERAL ESTABLISHMENT THAT TRANSPORTS DEAD HUMAN
4 BODIES SHALL:

5 (a) USE A MOTOR VEHICLE THAT IS APPROPRIATE FOR THE
6 TRANSPORTATION OF A DEAD HUMAN BODY; AND

7 (b) TRANSPORT DEAD HUMAN BODIES IN A SAFE AND SANITARY
8 MANNER.

9 (3) A FUNERAL ESTABLISHMENT SHALL REMOVE ANY IMPLANTED
10 DEVICE IN A DEAD HUMAN BODY BEFORE TRANSPORTING THE BODY TO A
11 CREMATORY.

12 **SECTION 10.** Article 54 of title 12, Colorado Revised Statutes,
13 is amended BY THE ADDITION OF THE FOLLOWING NEW PARTS
14 to read:

15 PART 3

16 CREMATION

17 **12-54-301. Unlawful acts.** (1) IT IS UNLAWFUL FOR A
18 CREMATIONIST:

19 (a) TO DISCRIMINATE BECAUSE OF RACE, CREED, COLOR, RELIGION,
20 SEX, MARITAL STATUS, SEXUAL ORIENTATION, OR NATIONAL ORIGIN IN THE
21 PROVISION OF FUNERAL SERVICES;

22 (b) TO APPROVE OR CAUSE THE FINAL DISPOSITION OF A DEAD
23 HUMAN BODY IN VIOLATION OF THIS ARTICLE;

24 (c) TO ENGAGE IN A BUSINESS PRACTICE THAT INTERFERES WITH
25 THE FREEDOM OF CHOICE OF THE GENERAL PUBLIC TO CHOOSE A FUNERAL
26 DIRECTOR, MORTUARY SCIENCE PRACTITIONER, CREMATIONIST,
27 EMBALMER, OR FUNERAL ESTABLISHMENT;

1 (d) TO ADVERTISE AS HOLDING A DEGREE, A CERTIFICATE OF
2 REGISTRATION, A PROFESSIONAL LICENSE, OR A PROFESSIONAL
3 CERTIFICATION ISSUED BY A STATE, POLITICAL SUBDIVISION, OR AGENCY
4 UNLESS THE PERSON HOLDS SUCH DEGREE, REGISTRATION, LICENSE, OR
5 CERTIFICATION AND IT IS CURRENT AND VALID AT THE TIME OF
6 ADVERTISEMENT;

7 (e) TO ADMIT OR PERMIT ANY PERSON TO VISIT THE CREMATORY
8 OR PREPARATION ROOM DURING THE TIME A BODY IS BEING CREMATED OR
9 PREPARED FOR FINAL DISPOSITION UNLESS SUCH PERSON:

10 (I) IS A FUNERAL DIRECTOR, MORTUARY SCIENCE PRACTITIONER,
11 OR CREMATIONIST;

12 (II) IS AN AUTHORIZED EMPLOYEE OF A CREMATORY;

13 (III) HAS THE WRITTEN CONSENT OF THE NEXT OF KIN OF THE
14 DECEASED PERSON OR OF A PERSON HAVING LEGAL AUTHORITY TO GIVE
15 CONSENT IN THE ABSENCE OF ANY NEXT OF KIN;

16 (IV) ENTERS BY ORDER OF A COURT OF COMPETENT JURISDICTION
17 OR A PEACE OFFICER LEVEL I, Ia, II, III, OR IIIa;

18 (V) IS A STUDENT OR INTERN ENROLLED IN A MORTUARY SCIENCE
19 PROGRAM;

20 (VI) IS A REGISTERED OR LICENSED NURSE WITH A MEDICAL
21 REASON TO BE PRESENT;

22 (VII) IS A LICENSED PHYSICIAN OR SURGEON WITH A MEDICAL
23 REASON TO BE PRESENT;

24 (VIII) IS A TECHNICIAN WITH A CERTIFIED ANATOMICAL DONATION
25 ORGANIZATION WHO POSSESSES APPROPRIATE DOCUMENTATION OF A
26 POTENTIAL ORGAN OR TISSUE DONATION; OR

27 (IX) IS THE DIRECTOR OR THE DIRECTOR'S DESIGNEE;

1 (f) TO REFUSE TO PROPERLY AND PROMPTLY RELEASE A DEAD
2 HUMAN BODY TO THE CUSTODY OF THE PERSON WHO HAS THE LEGAL
3 RIGHT TO EFFECT SUCH RELEASE, WHETHER OR NOT ANY COSTS HAVE BEEN
4 PAID, UNLESS THERE IS A GOOD FAITH DISPUTE OVER WHO CONTROLS THE
5 RIGHT OF FINAL DISPOSITION;

6 (g) TO CREMATE A DEAD HUMAN BODY WITHOUT OBTAINING
7 PERMISSION FROM THE PERSON WITH THE RIGHT OF FINAL DISPOSITION;

8 (h) TO PROHIBIT, HINDER, OR RESTRICT, OR ATTEMPT TO PROHIBIT,
9 HINDER, OR RESTRICT, THE FOLLOWING:

10 (I) THE OFFERING OR ADVERTISING OF IMMEDIATE CREMATION,
11 ADVANCE FUNERAL ARRANGEMENTS, LOW-COST FUNERALS, OR LOW-COST
12 CREMATIONS;

13 (II) ARRANGEMENTS BETWEEN MEMORIAL SOCIETIES AND
14 FUNERAL INDUSTRY MEMBERS; OR

15 (III) A FUNERAL SERVICE INDUSTRY MEMBER FROM DISCLOSING
16 ACCURATE INFORMATION CONCERNING FUNERAL MERCHANDISE AND
17 SERVICES;

18 (i) TO CREMATE A DEAD HUMAN BODY IN A FACILITY UNLESS THE
19 FACILITY IS REGISTERED PURSUANT TO SECTION 12-54-303;

20 (j) TO REFUSE TO ACCEPT A DEAD HUMAN BODY THAT IS NOT IN A
21 CASKET OR TO REQUIRE A DEAD HUMAN BODY TO BE PLACED IN A CASKET
22 AT ANY TIME;

23 (k) TO PERFORM SERVICES BEYOND A CREMATIONIST'S
24 COMPETENCY, TRAINING, OR EDUCATION.

25 (l) TO ENGAGE IN WILLFULLY DISHONEST CONDUCT OR COMMIT
26 NEGLIGENCE IN THE PRACTICE OF CREMATION OR PROVIDING FOR FINAL
27 DISPOSITION THAT DEFRAUDS OR CAUSES INJURY OR IS LIKELY TO DEFRAUD

1 OR CAUSE INJURY.

2 (2) FOR PURPOSES OF THIS SECTION ONLY, "NEXT OF KIN" SHALL
3 NOT INCLUDE ANY PERSON WHO IS ARRESTED ON SUSPICION OF HAVING
4 COMMITTED, IS CHARGED WITH, OR HAS BEEN CONVICTED OF, ANY FELONY
5 OFFENSE SPECIFIED IN PART 1 OF ARTICLE 3 OF TITLE 18, C.R.S.,
6 INVOLVING THE DEATH OF THE DECEASED PERSON. THIS SUBSECTION (2)
7 SHALL NOT APPLY IF CHARGES ARE NOT BROUGHT, CHARGES ARE BROUGHT
8 BUT DISMISSED, OR THE PERSON CHARGED IS ACQUITTED OF THE ALLEGED
9 CRIME BEFORE FINAL DISPOSITION OF THE DECEASED PERSON'S BODY.

10 **12-54-302. Exceptions - safe harbor.** (1) IF A CREMATIONIST
11 HAS ACTED IN GOOD FAITH, THE CREMATIONIST MAY RELY ON A SIGNED
12 STATEMENT FROM A PERSON WITH THE RIGHT OF FINAL DISPOSITION UNDER
13 SECTION 15-19-106, C.R.S., THAT:

14 (a) THE PERSON KNOWS OF NO DOCUMENT EXPRESSING THE
15 DECEASED PERSON'S WISHES FOR FINAL DISPOSITION THAT QUALIFIES TO
16 DIRECT THE FINAL DISPOSITION UNDER SECTION 15-19-104, C.R.S.;

17 (b) THE PERSON HAS MADE A REASONABLE EFFORT UNDER SECTION
18 15-19-106, C.R.S., TO CONTACT EACH PERSON WITH THE RIGHT OF FINAL
19 DISPOSITION AND TO LEARN HIS OR HER WISHES; AND

20 (c) THE PERSON KNOWS OF NO OBJECTIONS TO THE FINAL
21 DISPOSITION.

22 (2) (a) A CREMATIONIST MAY DISPOSE OF CREMAINS AT THE
23 EXPENSE OF THE PERSON WITH THE RIGHT OF FINAL DISPOSITION ONE
24 HUNDRED EIGHTY DAYS AFTER CREMATION IF THE PERSON WAS GIVEN
25 CLEAR PRIOR NOTICE OF THIS PARAGRAPH (a) AND A REASONABLE
26 OPPORTUNITY TO COLLECT THE CREMAINS, THE EXACT LOCATION OF THE
27 DISPOSITION AND THE COSTS ASSOCIATED WITH THE DISPOSITION ARE

1 RECORDED, AND THE RECOVERY OF THE CREMAINS IS POSSIBLE.
2 RECOVERY OF COSTS SHALL BE LIMITED TO A REASONABLE AMOUNT OF
3 THE COSTS ACTUALLY EXPENDED BY THE CREMATIONIST.

4 (b) IF THE DECEASED WAS CREMATED PRIOR TO JULY 1, 2003, AND
5 THE CREMATIONIST REASONABLY ATTEMPTS TO NOTIFY THE PERSON WITH
6 THE RIGHT OF FINAL DISPOSITION OF THE PROVISIONS OF THIS SUBSECTION
7 (2), THE CREMAINS MAY BE DISPOSED OF IN ACCORDANCE WITH THIS
8 SUBSECTION (2), NOTWITHSTANDING A FAILURE TO PROVIDE THE NOTICE
9 OF THE PROVISIONS OF THIS SUBSECTION (2) TO THE PERSON WITH THE
10 RIGHT OF FINAL DISPOSITION PRIOR TO DISPOSING OF THE REMAINS.

11 (3) (a) THIS PART 3 SHALL NOT APPLY TO, NOR INTERFERE WITH,
12 ANY CUSTOM OR RITE OF A RELIGIOUS SECT IN THE FINAL DISPOSITION OF
13 ITS DEAD, AND THE MEMBERS AND FOLLOWERS OF SUCH RELIGIOUS SECT
14 MAY CONTINUE TO CARE FOR, PREPARE, AND CREMATE THE BODIES OF
15 DECEASED MEMBERS OF THE RELIGIOUS SECT IF THE DEAD HUMAN BODY
16 IS REFRIGERATED, FROZEN, OR CREMATED WITHIN SEVEN DAYS AFTER
17 DEATH.

18 (b) IF A DEAD HUMAN BODY IS REFRIGERATED PURSUANT TO
19 PARAGRAPH (a) OF THIS SUBSECTION (3), THE BODY SHALL BE CREMATED
20 WITHIN THIRTY DAYS AFTER DEATH UNLESS THE CORONER AUTHORIZES
21 OTHERWISE IN WRITING. THE CORONER SHALL NOT PERMIT AN EXCEPTION
22 TO THIS PARAGRAPH (b) UNLESS THE APPLICANT CAN DEMONSTRATE A
23 LEGITIMATE DELAY CAUSED BY UNFORESEEN, UNCONTROLLABLE
24 CIRCUMSTANCES OR BY A CRIMINAL INVESTIGATION.

25 **12-54-303. Registration required.** (1) UNLESS PRACTICING AT
26 A REGISTERED CREMATORY PURSUANT TO THIS SECTION, A PERSON SHALL
27 NOT PRACTICE AS, OR OFFER THE SERVICES OF, A CREMATIONIST, NOR

1 SHALL THE CREMATORY SELL OR OFFER TO SELL FUNERAL GOODS OR
2 SERVICES TO THE PUBLIC.

3 (2) (a) EACH CREMATORY SHALL REGISTER WITH THE DIRECTOR
4 USING FORMS AS DETERMINED BY THE DIRECTOR. THE REGISTRATION
5 SHALL INCLUDE, WITHOUT LIMITATION, THE FOLLOWING:

6 (I) THE SPECIFIC LOCATION OF THE CREMATORY;

7 (II) THE FULL NAME AND ADDRESS OF THE DESIGNEE APPOINTED
8 PURSUANT TO SUBSECTION (3) OF THIS SECTION;

9 (III) THE DATE THE CREMATORY BEGAN DOING BUSINESS; AND

10 (IV) A LIST OF EACH OF THE FOLLOWING SERVICES PROVIDED AT
11 EACH CREMATORY LOCATION:

12 (A) REFRIGERATING OR HOLDING DEAD HUMAN BODIES;

13 (B) TRANSPORTING DEAD HUMAN BODIES TO OR FROM THE
14 CREMATORY OR THE PLACE OF FINAL DISPOSITION;

15 (C) PROVIDING FUNERAL GOODS OR SERVICES TO THE PUBLIC; AND

16 (D) CREMATING DEAD HUMAN BODIES.

17 (b) EACH CREMATORY REGISTRATION SHALL BE RENEWED,
18 ACCORDING TO A SCHEDULE ESTABLISHED BY THE DIRECTOR, IN A FORM AS
19 DETERMINED BY THE DIRECTOR.

20 (c) IF, AFTER INITIAL REGISTRATION, THE CREMATORY PROVIDES
21 A SERVICE LISTED IN SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF THIS
22 SUBSECTION (2) THAT WAS NOT INCLUDED IN THE INITIAL REGISTRATION,
23 THE CREMATORY SHALL SUBMIT AN AMENDED REGISTRATION WITHIN
24 THIRTY DAYS AFTER BEGINNING TO PROVIDE THE NEW SERVICE.

25 (d) IF, AFTER INITIAL REGISTRATION, THE CREMATORY APPOINTS
26 A NEW DESIGNEE, THE CREMATORY SHALL SUBMIT AN AMENDED
27 REGISTRATION WITHIN THIRTY DAYS AFTER APPOINTING THE DESIGNEE.

1 (e) THE DIRECTOR MAY ESTABLISH REGISTRATION FEES, RENEWAL
2 FEES, AND DELINQUENCY FEES FOR REINSTATEMENT PURSUANT TO
3 SECTION 24-34-105, C.R.S. IF A CREMATORY FAILS TO RENEW THE
4 REGISTRATION IN ACCORDANCE WITH THE SCHEDULE ESTABLISHED BY THE
5 DIRECTOR, THE REGISTRATION SHALL EXPIRE.

6 (3) EACH CREMATORY SHALL APPOINT AN INDIVIDUAL AS THE
7 DESIGNEE OF THE CREMATORY.

8

9 (4) THE DESIGNEE SHALL REQUIRE EACH PERSON EMPLOYED AT
10 THE CREMATORY TO DEMONSTRATE EVIDENCE OF COMPLIANCE WITH
11 SECTION 12-54-304. THE DESIGNEE SHALL RETAIN THE RECORDS OF SUCH
12 EVIDENCE SO LONG AS THE PERSON IS EMPLOYED AT THE CREMATORY.

13 **12-54-304. Title protection.** A PERSON SHALL NOT ADVERTISE,
14 REPRESENT, OR HOLD ONESELF OUT AS OR USE THE TITLE OF A
15 CREMATIONIST UNLESS THE APPLICANT HAS AT LEAST FIVE HUNDRED
16 HOURS PRACTICING OR INTERNING AS A CREMATIONIST AND HAS
17 CREMATED AT LEAST ONE HUNDRED DEAD HUMAN BODIES.

18 **12-54-305. Records and receipts.** (1) THE CREMATORY SHALL
19 FURNISH TO A PERSON WHO DELIVERS HUMAN REMAINS TO THE
20 CREMATORY A RECEIPT, WHICH SHALL BE SIGNED BY BOTH THE
21 CREMATORY'S REPRESENTATIVE AND THE PERSON WHO DELIVERS THE
22 HUMAN REMAINS. THE CREMATORY SHALL RETAIN A COPY OF THE RECEIPT
23 IN ITS RECORDS PURSUANT TO SUBSECTION (3) OF THIS SECTION. THE
24 RECEIPT SHALL INCLUDE THE FOLLOWING:

25 (a) THE DATE AND TIME OF THE DELIVERY;

26 (b) THE TYPE OF CASKET OR ALTERNATIVE CONTAINER THAT WAS
27 DELIVERED;

1 (c) THE NAME OF THE PERSON WHO DELIVERED THE HUMAN
2 REMAINS;

3 (d) THE NAME OF ANY BUSINESS WITH WHICH THE PERSON
4 DELIVERING THE HUMAN REMAINS IS AFFILIATED;

5 (e) THE NAME OF THE PERSON WHO RECEIVED THE HUMAN
6 REMAINS ON BEHALF OF THE CREMATORY; AND

7 (f) THE NAME OF THE DECEDENT.

8 (2) UPON RELEASE OF CREMAINS, THE CREMATORY SHALL FURNISH
9 TO THE PERSON WHO RECEIVES THE CREMAINS A RECEIPT, SIGNED BY BOTH
10 THE CREMATORY'S REPRESENTATIVE AND THE PERSON WHO RECEIVES THE
11 CREMAINS. THE CREMATORY SHALL RETAIN A COPY OF THE RECEIPT IN ITS
12 RECORDS PURSUANT TO SUBSECTION (1) OF THIS SECTION. THE RECEIPT
13 SHALL INCLUDE THE FOLLOWING:

14 (a) THE DATE AND TIME OF THE RELEASE;

15 (b) THE NAME OF THE PERSON TO WHOM THE CREMAINS WERE
16 RELEASED;

17 (c) THE NAME OF THE PERSON WHO RELEASED THE CREMAINS ON
18 BEHALF OF THE CREMATORY; AND

19 (d) THE NAME OF THE DECEDENT.

20 (3) A CREMATORY SHALL MAINTAIN, FOR AT LEAST FIVE YEARS
21 AND AVAILABLE AT THE REGISTERED LOCATION, A PERMANENT RECORD OF
22 EACH CREMATION OCCURRING AT THE FACILITY AND COPIES OF THE
23 RECEIPTS REQUIRED BY THIS SECTION.

24 **12-54-306. Limited liability.** A CREMATORY SHALL NOT BE
25 LIABLE FOR ANY VALUABLES DELIVERED TO THE CREMATORY IF THE
26 CREMATORY EXERCISED REASONABLE CARE IN HANDLING AND
27 PROTECTING THE VALUABLES.

1 **12-54-307. Standards of practice - cremating.** (1) A
2 CREMATORY SHALL:

3 (a) MAINTAIN A RETORT OR CREMATORY CHAMBER THAT IS
4 OPERATED AT ALL TIMES IN A SAFE AND SANITARY MANNER;

5 (b) EMPLOY REASONABLE CARE TO MINIMIZE THE RISK OF
6 TRANSMITTING COMMUNICABLE DISEASES FROM DEAD HUMAN BODIES;

7 (c) BE EQUIPPED WITH INSTRUMENTS AND SUPPLIES NECESSARY TO
8 PROTECT THE HEALTH AND SAFETY OF THE PUBLIC AND EMPLOYEES OF THE
9 CREMATORY; AND

10 (d) TRANSPORT DEAD HUMAN BODIES IN A SAFE AND SANITARY
11 MANNER.

12 (2) (a) A CREMATORY SHALL NOT CREMATE A DEAD HUMAN BODY
13 UNLESS THE CREMATORY HAS OBTAINED A STATEMENT CONTAINING THE
14 FOLLOWING FROM A FUNERAL ESTABLISHMENT, FUNERAL DIRECTOR,
15 MORTUARY SCIENCE PRACTITIONER, OR THE PERSON WITH THE RIGHT OF
16 FINAL DISPOSITION:

17 (I) THE IDENTITY OF THE DECEDENT;

18 (II) THE DATE OF DEATH;

19 (III) AUTHORIZATION TO CREMATE THE DEAD HUMAN BODY;

20 (IV) THE NAME OF THE PERSON AUTHORIZING CREMATION AND AN
21 AFFIDAVIT OR OTHER DOCUMENT IN COMPLIANCE WITH ARTICLE 19 OF
22 TITLE 15, C.R.S., THAT THE AUTHORIZATION COMPLIES WITH ARTICLE 19
23 OF TITLE 15, C.R.S.;

24 (V) A STATEMENT THAT THE DEAD HUMAN BODY DOES NOT
25 CONTAIN AN IMPLANTED DEVICE;

26 (VI) THE NAME OF THE PERSON AUTHORIZED TO RECEIVE THE
27 CREMAINS;

1 (VII) A LIST OF ITEMS DELIVERED TO THE CREMATORY ALONG
2 WITH THE DEAD HUMAN BODY;

3 (VIII) A STATEMENT AS TO WHETHER THE NEXT OF KIN HAS MADE
4 ARRANGEMENTS FOR A VIEWING OR SERVICE BEFORE CREMATION AND THE
5 DATE AND TIME OF ANY VIEWING OR SERVICE;

6 (IX) A COPY OF THE DEATH CERTIFICATE; AND

7 (X) A SIGNATURE OF A REPRESENTATIVE OF ANY FUNERAL
8 ESTABLISHMENT OR THE NEXT OF KIN MAKING ARRANGEMENTS FOR
9 CREMATION THAT THE REPRESENTATIVE HAS NO ACTUAL KNOWLEDGE
10 THAT CONTRADICTS ANY INFORMATION REQUIRED BY THIS PARAGRAPH (a).

11 (b) A PERSON WHO SIGNS THE STATEMENT REQUIRED BY
12 PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL WARRANT THE
13 TRUTHFULNESS OF THE FACTS CONTAINED THEREIN. A PERSON WHO SIGNS
14 THE STATEMENT WITH ACTUAL KNOWLEDGE TO THE CONTRARY SHALL BE
15 CIVILLY LIABLE.

16 (3) (a) THE DEAD HUMAN BODY SHALL BE HELD IN A CREMATION
17 CONTAINER AND SHALL NOT BE REMOVED.

18 (b) THE DEAD HUMAN BODY SHALL BE CREMATED IN A CREMATION
19 CONTAINER.

20 (c) A CREMATION CONTAINER SHALL:

21 (I) BE COMPOSED OF COMBUSTIBLE MATERIALS SUITABLE FOR
22 CREMATION;

23 (II) BE ABLE TO BE CLOSED IN ORDER TO PROVIDE A COMPLETE
24 COVERING FOR THE DEAD HUMAN BODY;

25 (III) BE RESISTANT TO LEAKING OR SPILLING;

26 (IV) BE RIGID ENOUGH TO HANDLE WITH EASE; AND

27 (V) PROVIDE REASONABLE PROTECTION FOR THE HEALTH AND

1 SAFETY OF CREMATORY EMPLOYEES.

2 (4) A CREMATORY SHALL NOT CREMATE MORE THAN ONE DEAD
3 HUMAN BODY WITHIN THE SAME CREMATION CHAMBER OR OTHERWISE
4 COMMINGLE THE CREMAINS OF MULTIPLE DEAD HUMAN BODIES UNLESS
5 THE NEXT OF KIN HAS SIGNED A WRITTEN AUTHORIZATION. NO
6 CREMATORY SHALL BE HELD CIVILLY LIABLE FOR COMMINGLING THE
7 CREMAINS OF DEAD HUMAN BODIES IF THE NEXT OF KIN HAS SIGNED SUCH
8 WRITTEN AUTHORIZATION.

9 (5) (a) A CREMATORY SHALL USE A TAG TO IDENTIFY A DEAD
10 HUMAN BODY AND CREMAINS. THE TAG SHALL BE VERIFIED, REMOVED,
11 AND PLACED NEAR THE CREMATION CHAMBER CONTROL PANEL PRIOR TO
12 CREMATION. THE TAG SHALL REMAIN NEXT TO THE CREMATION CHAMBER
13 UNTIL THE CREMATION IS COMPLETE.

14 (b) AFTER CREMATION IS COMPLETE, ALL OF THE CREMAINS AND
15 REASONABLE RECOVERABLE RESIDUE SHALL BE REMOVED FROM THE
16 CREMATION CHAMBER AND PROCESSED AS NECESSARY. ANYTHING OTHER
17 THAN THE CREMAINS SHALL BE DISPOSED OF UNLESS THE NEXT OF KIN
18 AUTHORIZES OTHERWISE.

19 (c) THE PROCESSED CREMAINS SHALL BE PLACED IN A TEMPORARY
20 CONTAINER OR URN. ANY CREMAINS THAT DO NOT FIT WITHIN SUCH
21 ENCLOSURE SHALL BE PLACED IN A SEPARATE TEMPORARY CONTAINER OR
22 URN. EACH CONTAINER SHALL BE MARKED WITH THE DECEDENT'S
23 IDENTITY AND THE NAME OF THE CREMATORY. IF A TEMPORARY
24 CONTAINER IS USED, THE CREMATORY SHALL DISCLOSE THAT THE
25 TEMPORARY CONTAINER SHOULD NOT BE USED FOR PERMANENT STORAGE.

26 (d) IF CREMATED REMAINS ARE SHIPPED, THE CREMATORY SHALL
27 USE A METHOD THAT EMPLOYS AN INTERNAL TRACKING SYSTEM AND

1 OBTAINS A SIGNED RECEIPT FROM THE PERSON ACCEPTING DELIVERY.

2 (6) CREMAINS SHALL NOT BE COMMINGLED WITH OTHER CREMAINS
3 IN FINAL DISPOSITION OR SCATTERING WITHOUT WRITTEN AUTHORIZATION
4 FROM THE NEXT OF KIN UNLESS THE DISPOSITION OR SCATTERING OCCURS
5 WITHIN A DEDICATED CEMETERY OR CONSECRATED GROUNDS USED
6 EXCLUSIVELY FOR SUCH PURPOSES.

7 (7) (a) A CREMATORY SHALL NOT CREMATE A DEAD HUMAN BODY
8 CONTAINING AN IMPLANTED DEVICE. IF THE FUNERAL ESTABLISHMENT
9 THAT HAD CONTROL OF THE DEAD HUMAN BODY FAILED TO ENSURE THAT
10 A DEVICE WAS REMOVED, THE FUNERAL ESTABLISHMENT SHALL BE
11 RESPONSIBLE FOR REMOVING THE DEVICE.

12 (b) IF THE PERSON AUTHORIZING CREMATION FAILS TO INFORM THE
13 CREMATORY OF THE PRESENCE OF AN IMPLANTED DEVICE, THE PERSON
14 SHALL BE SOLELY LIABLE FOR ANY RESULTING DAMAGE TO THE
15 CREMATORY.

16 PART 4

17 ADMINISTRATION

18 [REDACTED] [REDACTED]
19 **12-54-401. Powers and duties of the director - rules.** (1) THE
20 DIRECTOR MAY DENY, SUSPEND, REFUSE TO RENEW, ISSUE A LETTER OF
21 ADMONITION OR CONFIDENTIAL LETTER OF CONCERN TO, REVOKE, PLACE
22 ON PROBATION, OR LIMIT THE SCOPE OF PRACTICE OF A REGISTRATION
23 APPLICATION OR THE REGISTRATION OF A FUNERAL ESTABLISHMENT OR
24 CREMATORY UNDER THIS ARTICLE THAT HAS:

25 (a) FILED AN APPLICATION WITH THE DIRECTOR CONTAINING
26 MATERIAL MISSTATEMENTS OF FACT OR HAS OMITTED ANY DISCLOSURE
27 REQUIRED BY THIS ARTICLE;

1 (b) HAD A REGISTRATION ISSUED BY COLORADO, OR AN
2 EQUIVALENT LICENSE, REGISTRATION, OR CERTIFICATION ISSUED BY
3 ANOTHER STATE, TO PRACTICE MORTUARY SCIENCE OR TO EMBALM OR
4 CREMATE A DEAD HUMAN BODY REVOKED; OR

5 (c) VIOLATED THIS ARTICLE OR ANY RULE OF THE DIRECTOR
6 ADOPTED UNDER THIS ARTICLE.

7 (2) (a) THE DIRECTOR MAY REVOKE A REGISTRATION IF THE
8 FUNERAL ESTABLISHMENT, CREMATORY, OR THE DESIGNEE THEREOF HAS
9 BEEN CONVICTED OF A FELONY RELATED TO ANOTHER ACTIVITY
10 REGULATED UNDER THIS ARTICLE OR A FELONY OF MORAL TURPITUDE.
11 THE DIRECTOR SHALL PROMPTLY NOTIFY THE FUNERAL ESTABLISHMENT
12 OR CREMATORY OF SUCH REVOCATION.

13 (b) A CREMATORY OR FUNERAL ESTABLISHMENT WHOSE
14 REGISTRATION HAS BEEN REVOKED SHALL NOT BE ELIGIBLE FOR A
15 REGISTRATION FOR TWO YEARS AFTER THE EFFECTIVE DATE OF THE
16 REVOCATION.

17 (3) THE DIRECTOR MAY INVESTIGATE THE ACTIVITIES OF A
18 FUNERAL ESTABLISHMENT OR CREMATORY UPON HIS OR HER OWN
19 INITIATIVE OR UPON RECEIPT OF A COMPLAINT OR A SUSPECTED OR
20 ALLEGED VIOLATION OF THIS ARTICLE. THE DIRECTOR MAY ENTER THE
21 PREMISES IN WHICH VIOLATIONS ARE ALLEGED TO HAVE OCCURRED
22 DURING BUSINESS HOURS.

23 (4) THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE APPOINTED
24 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., SHALL
25 CONDUCT DISCIPLINARY HEARINGS CONCERNING A REGISTRATION ISSUED
26 UNDER THIS ARTICLE. SUCH HEARINGS SHALL CONFORM TO ARTICLE 4 OF
27 TITLE 24, C.R.S.

1 (5) (a) THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE MAY
2 ADMINISTER OATHS, TAKE AFFIRMATIONS OF WITNESSES, AND ISSUE
3 SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE
4 PRODUCTION OF ALL RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY
5 EVIDENCE, AND MATERIALS IN ANY HEARING OR INVESTIGATION
6 CONDUCTED BY THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE.

7 (b) UPON FAILURE OF A WITNESS TO COMPLY WITH A SUBPOENA OR
8 SERVICE OF PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH THE
9 SUBPOENAED WITNESS RESIDES OR CONDUCTS BUSINESS MAY ISSUE AN
10 ORDER REQUIRING THE WITNESS TO APPEAR BEFORE THE DIRECTOR OR
11 ADMINISTRATIVE LAW JUDGE AND PRODUCE THE RELEVANT PAPERS,
12 BOOKS, RECORDS, DOCUMENTARY EVIDENCE, TESTIMONY, OR MATERIALS
13 IN QUESTION. FAILURE TO OBEY THE ORDER OF THE COURT MAY BE
14 PUNISHED AS A CONTEMPT OF COURT. THE DIRECTOR OR AN
15 ADMINISTRATIVE LAW JUDGE MAY APPLY FOR SUCH ORDER.

16 (6) THE DIRECTOR SHALL KEEP RECORDS OF REGISTRATIONS AND
17 DISCIPLINARY PROCEEDINGS. THE RECORDS KEPT BY THE DIRECTOR SHALL
18 BE OPEN TO PUBLIC INSPECTION IN A REASONABLE TIME AND MANNER
19 DETERMINED BY THE DIRECTOR.

20 (7) WHEN THE DIRECTOR OR ADMINISTRATIVE LAW JUDGE DEEMS
21 IT APPROPRIATE AND USEFUL, THE DIRECTOR OR ADMINISTRATIVE LAW
22 JUDGE SHALL CONSULT WITH OR OBTAIN A WRITTEN OPINION FROM AN
23 APPROPRIATE PROFESSIONAL ORGANIZATION OR ASSOCIATION OF
24 BUSINESSES WHO OFFER SERVICES REQUIRING REGISTRATION UNDER THIS
25 ARTICLE FOR THE PURPOSE OF INVESTIGATING POSSIBLE VIOLATIONS OR
26 WEIGHING THE APPROPRIATE STANDARD OF CARE TO BE APPLIED TO
27 SPECIFIC EVENTS OR THE FACTS IN A HEARING BEING HELD UNDER THIS

1 ARTICLE.

2 (8) (a) THE DIRECTOR MAY PROMULGATE REASONABLE RULES
3 NECESSARY TO IMPLEMENT THIS SECTION, SECTIONS 12-54-110,
4 12-54-111, 12-54-303, AND 12-54-304, AND THIS PART 4.

5 (b) BEFORE PROMULGATING RULES, THE DIRECTOR SHALL SEEK
6 INPUT AND ADVICE FROM A PERSON, OR ANY STATE PROFESSIONAL
7 ORGANIZATION OF PERSONS, OFFERING SERVICES THAT REQUIRE
8 REGISTRATION PURSUANT TO THIS ARTICLE.

9 **12-54-402. Fees.** (1) THE DIRECTOR SHALL ESTABLISH AND
10 COLLECT THE FEES FOR A REGISTRATION ISSUED UNDER THIS ARTICLE
11 PURSUANT TO SECTION 24-34-105, C.R.S.

12 (2) ALL FEES COLLECTED BY THE DIRECTOR SHALL BE
13 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
14 PURSUANT TO SECTION 24-34-105, C.R.S., AND THE GENERAL ASSEMBLY
15 SHALL MAKE ANNUAL APPROPRIATIONS FOR EXPENDITURES OF THE
16 DIRECTOR REQUIRED TO PERFORM HIS OR HER DUTIES UNDER THIS ARTICLE,
17 WHICH EXPENDITURES SHALL BE MADE FROM SUCH APPROPRIATIONS UPON
18 VOUCHERS AND WARRANTS DRAWN PURSUANT TO LAW. THE DIVISION
19 SHALL EMPLOY, SUBJECT TO SECTION 13 OF ARTICLE XII OF THE STATE
20 CONSTITUTION, SUCH CLERICAL OR OTHER ASSISTANTS AS ARE NECESSARY
21 FOR THE PROPER PERFORMANCE OF ITS WORK.

22 **12-54-403. Immunity.** THE DIRECTOR, ANY MEMBER OF THE
23 DIRECTOR'S STAFF, ANY PERSON ACTING AS A WITNESS OR CONSULTANT TO
24 THE DIRECTOR, ANY WITNESS TESTIFYING IN A PROCEEDING AUTHORIZED
25 UNDER THIS ARTICLE, AND ANY PERSON WHO LODGES A COMPLAINT
26 PURSUANT TO THIS ARTICLE SHALL BE IMMUNE FROM LIABILITY IN ANY
27 CIVIL ACTION FOR ACTS OCCURRING WHILE ACTING WITHIN THE SCOPE OF

1 THE PERSON'S CAPACITY AS DIRECTOR, STAFF, CONSULTANT, WITNESS, OR
2 COMPLAINANT RESPECTIVELY, IF THE PERSON WAS ACTING IN GOOD FAITH,
3 MADE A REASONABLE EFFORT TO OBTAIN THE FACTS OF THE MATTER AS TO
4 WHICH THE PERSON ACTED, AND ACTED IN THE REASONABLE BELIEF THAT
5 THE ACTION TAKEN WAS WARRANTED BY THE FACTS. A PERSON
6 PARTICIPATING IN GOOD FAITH IN LODGING A COMPLAINT OR
7 PARTICIPATING IN ANY INVESTIGATIVE OR ADMINISTRATIVE PROCEEDING
8 PURSUANT TO THIS ARTICLE SHALL BE IMMUNE FROM ANY CIVIL LIABILITY
9 THAT MAY RESULT FROM SUCH PARTICIPATION.

10

11 **12-54-404. Letters of concern.** THE DIRECTOR MAY ISSUE AND
12 SEND A CONFIDENTIAL LETTER OF CONCERN TO THE FUNERAL
13 ESTABLISHMENT OR CREMATORY WHEN A COMPLAINT OR INVESTIGATION
14 DISCLOSES AN INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL
15 ACTION BY THE DIRECTOR AND, IN THE OPINION OF THE DIRECTOR, THE
16 COMPLAINT SHOULD BE DISMISSED, BUT THE DIRECTOR HAS NOTICED
17 INDICATIONS OF POSSIBLE ERRANT CONDUCT BY THE FUNERAL
18 ESTABLISHMENT OR CREMATORY THAT COULD LEAD TO SERIOUS
19 CONSEQUENCES IF NOT CORRECTED.

20 **12-54-405. Letters of admonition - funeral homes and**
21 **crematories.** (1) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
22 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
23 NOT WARRANT FORMAL ACTION BY THE DIRECTOR BUT THAT SHOULD NOT
24 BE DISMISSED AS BEING WITHOUT MERIT, A LETTER OF ADMONITION MAY
25 BE ISSUED AND SENT TO A PERSON BY CERTIFIED MAIL.

26 (2) WHEN A LETTER OF ADMONITION IS SENT BY THE DIRECTOR,
27 THE SUBJECT SHALL BE ADVISED OF THE RIGHT TO REQUEST THAT FORMAL

1 DISCIPLINARY PROCEEDINGS BE INITIATED TO ADJUDICATE THE PROPRIETY
2 OF THE CONDUCT UPON WHICH THE LETTER OF ADMONITION IS BASED. THE
3 SUBJECT SHALL MAKE THE REQUEST IN WRITING WITHIN TWENTY DAYS
4 AFTER RECEIPT OF THE LETTER.

5 (3) IF THE REQUEST FOR ADJUDICATION IS TIMELY MADE, THE
6 LETTER OF ADMONITION SHALL BE DEEMED VACATED AND THE MATTER
7 SHALL BE PROCESSED BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

8 **12-54-406. Cease-and-desist orders - procedure.** (1) (a) IF IT
9 APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE EVIDENCE AS
10 PRESENTED IN A WRITTEN COMPLAINT, THAT A PERSON IS ACTING IN A
11 MANNER THAT CREATES AN IMMINENT THREAT TO THE HEALTH AND
12 SAFETY OF THE PUBLIC, OR A PERSON IS ACTING OR HAS ACTED WITHOUT
13 THE REQUIRED REGISTRATION, THE DIRECTOR MAY ISSUE AN ORDER TO
14 CEASE AND DESIST SUCH ACTIVITY. THE ORDER SHALL SET FORTH THE
15 STATUTES AND RULES ALLEGED TO HAVE BEEN VIOLATED, THE FACTS
16 ALLEGED TO HAVE CONSTITUTED THE VIOLATION, AND THE REQUIREMENT
17 THAT ALL UNLAWFUL ACTS OR UNAUTHORIZED PRACTICES IMMEDIATELY
18 CEASE.

19 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
20 DESIST PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), THE
21 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER
22 THE ALLEGED ACTS OR PRACTICES HAVE OCCURRED. SUCH HEARING
23 SHALL BE CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105,
24 C.R.S.

25 (2) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
26 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT, THAT A PERSON HAS
27 VIOLATED THIS ARTICLE OR RULES PROMULGATED UNDER THIS ARTICLE,

1 THEN, IN ADDITION TO ANY SPECIFIC POWERS GRANTED PURSUANT TO THIS
2 ARTICLE, THE DIRECTOR MAY ISSUE TO SUCH PERSON AN ORDER TO SHOW
3 CAUSE AS TO WHY THE DIRECTOR SHOULD NOT ISSUE A FINAL ORDER
4 DIRECTING SUCH PERSON TO CEASE AND DESIST FROM SUCH VIOLATIONS.

5 (b) A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
6 BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL
7 BE PROMPTLY NOTIFIED BY THE DIRECTOR OF THE ISSUANCE OF THE
8 ORDER, ALONG WITH A COPY OF THE ORDER, THE FACTUAL AND LEGAL
9 BASIS FOR THE ORDER, AND THE DATE SET BY THE DIRECTOR FOR A
10 HEARING ON THE ORDER. SUCH NOTICE MAY BE SERVED BY PERSONAL
11 SERVICE, BY FIRST-CLASS UNITED STATES MAIL, POSTAGE PREPAID, OR AS
12 MAY BE PRACTICABLE UPON ANY PERSON AGAINST WHOM SUCH ORDER IS
13 ISSUED. PERSONAL SERVICE OR MAILING OF AN ORDER OR DOCUMENT
14 PURSUANT TO THIS SUBSECTION (2) SHALL CONSTITUTE NOTICE THEREOF
15 TO THE PERSON.

16 (c) (I) THE HEARING ON AN ORDER TO SHOW CAUSE SHALL BE
17 COMMENCED NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE
18 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
19 NOTIFICATION BY THE DIRECTOR AS PROVIDED IN PARAGRAPH (b) OF THIS
20 SUBSECTION (2). THE HEARING MAY BE CONTINUED BY AGREEMENT OF
21 ALL PARTIES BASED UPON THE COMPLEXITY OF THE MATTER, NUMBER OF
22 PARTIES TO THE MATTER, AND LEGAL ISSUES PRESENTED IN THE MATTER,
23 BUT IN NO EVENT SHALL THE HEARING COMMENCE LATER THAN SIXTY
24 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
25 NOTIFICATION.

26 (II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
27 BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) DOES

1 NOT APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE
2 THAT NOTIFICATION WAS PROPERLY SENT OR SERVED UPON SUCH PERSON
3 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) AND SUCH OTHER
4 EVIDENCE RELATED TO THE MATTER AS THE DIRECTOR DEEMS
5 APPROPRIATE. THE DIRECTOR SHALL ISSUE THE ORDER WITHIN TEN DAYS
6 AFTER THE DIRECTOR'S DETERMINATION RELATED TO REASONABLE
7 ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER SHALL BECOME
8 FINAL AS TO THAT PERSON BY OPERATION OF LAW. SUCH HEARING SHALL
9 BE CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105, C.R.S.

10 (III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON
11 AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR
12 HAS ACTED WITHOUT THE REQUIRED REGISTRATION OR HAS ENGAGED IN
13 ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF THIS ARTICLE OR RULES
14 PROMULGATED UNDER THIS ARTICLE, A FINAL CEASE-AND-DESIST ORDER
15 MAY BE ISSUED, DIRECTING SUCH PERSON TO CEASE AND DESIST FROM
16 FURTHER VIOLATIONS.

17 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET
18 FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (2), OF THE FINAL
19 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
20 HEARING CONDUCTED PURSUANT TO THIS PARAGRAPH (c) TO EACH PERSON
21 AGAINST WHOM THE FINAL ORDER HAS BEEN ISSUED. THE FINAL ORDER
22 SHALL BE EFFECTIVE WHEN ISSUED AND SHALL BE A FINAL ORDER FOR
23 PURPOSES OF JUDICIAL REVIEW.

24 (3) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
25 EVIDENCE PRESENTED TO THE DIRECTOR, THAT A PERSON HAS ENGAGED IN
26 AN ACT OR PRACTICE CONSTITUTING A VIOLATION OF THIS ARTICLE, A RULE
27 PROMULGATED PURSUANT TO THIS ARTICLE, AN ORDER ISSUED PURSUANT

1 TO THIS ARTICLE, OR AN ACT OR PRACTICE CONSTITUTING GROUNDS FOR
2 ADMINISTRATIVE SANCTION PURSUANT TO THIS ARTICLE, THE DIRECTOR
3 MAY ENTER INTO A STIPULATION WITH THE PERSON.

4 (4) IF A PERSON FAILS TO COMPLY WITH A FINAL
5 CEASE-AND-DESIST ORDER OR A STIPULATION, THE DIRECTOR MAY
6 REQUEST THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE
7 JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING,
8 AND IF SO REQUESTED SUCH ATTORNEY SHALL BRING, SUIT FOR A
9 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO
10 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.

11 (5) A PERSON AGGRIEVED BY THE FINAL CEASE-AND-DESIST ORDER
12 MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION OR OF
13 THE DIRECTOR'S FINAL ORDER.

14 **12-54-407. Civil penalty - fine.** (1) ON MOTION OF THE
15 DIRECTOR, THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN
16 ONE THOUSAND DOLLARS FOR A VIOLATION OF THIS ARTICLE OR A RULE
17 PROMULGATED UNDER THIS ARTICLE. THE PENALTY SHALL BE
18 TRANSMITTED TO THE STATE TREASURER AND CREDITED TO THE GENERAL
19 FUND.

20 (2) IN ADDITION TO ANY OTHER PENALTY THAT MAY BE IMPOSED
21 PURSUANT TO THIS SECTION, A FUNERAL ESTABLISHMENT OR CREMATORY
22 VIOLATING THIS ARTICLE OR A RULE PROMULGATED PURSUANT TO THIS
23 ARTICLE MAY BE FINED NO LESS THAN ONE HUNDRED DOLLARS AND NO
24 MORE THAN FIVE THOUSAND DOLLARS FOR EACH VIOLATION PROVEN BY
25 THE DIRECTOR. ALL FINES COLLECTED PURSUANT TO THIS SUBSECTION (2)
26 SHALL BE TRANSFERRED TO THE STATE TREASURER, WHO SHALL CREDIT
27 SUCH MONEYS TO THE GENERAL FUND.

1 **12-54-408. Enforcement - injunctions.** (1) THE DIRECTOR MAY
2 FORWARD TO A DISTRICT ATTORNEY OR A STATE OR FEDERAL LAW
3 ENFORCEMENT AGENCY ANY INFORMATION CONCERNING POSSIBLE
4 VIOLATIONS OF STATUTE OR RULE UNDER THIS ARTICLE COMMITTED BY
5 ANY PERSON OR COMPLAINTS FILED AGAINST A FUNERAL DIRECTOR,
6 MORTUARY SCIENCE PRACTITIONER, CREMATIONIST, OR EMBALMER.

7 (2) THE DIRECTOR MAY REQUEST THAT AN ACTION BE BROUGHT IN
8 THE NAME OF THE PEOPLE OF THE STATE OF COLORADO BY THE ATTORNEY
9 GENERAL OR THE DISTRICT ATTORNEY OF THE DISTRICT IN WHICH THE
10 VIOLATION IS ALLEGED TO HAVE OCCURRED TO ENJOIN A PERSON FROM
11 ENGAGING IN OR CONTINUING THE VIOLATION OR FROM DOING ANY ACT
12 THAT FURTHERS THE VIOLATION. IN SUCH AN ACTION, AN ORDER OR
13 JUDGMENT MAY BE ENTERED AWARDING SUCH PRELIMINARY OR FINAL
14 INJUNCTION AS IS DEEMED PROPER BY THE COURT. THE NOTICE, HEARING,
15 OR DURATION OF AN INJUNCTION OR RESTRAINING ORDER SHALL BE MADE
16 IN ACCORDANCE WITH THE COLORADO RULES OF CIVIL PROCEDURE.

17 **12-54-409. Deferment prohibited.** WHEN A COMPLAINT OR AN
18 INVESTIGATION DISCLOSES MISCONDUCT THAT, IN THE OPINION OF THE
19 DIRECTOR, WARRANTS FORMAL ACTION, THE COMPLAINT SHALL NOT BE
20 RESOLVED BY A DEFERRED SETTLEMENT, ACTION, JUDGMENT, OR
21 PROSECUTION.

22 **12-54-410. Repeal.** SECTIONS 12-54-110, 12-54-111, 12-54-303,
23 AND 12-54-304 AND THIS PART 4 ARE REPEALED, EFFECTIVE JULY 1, 2015.
24 PRIOR TO SUCH REPEAL, THE REGULATION OF PERSONS REGISTERED TO
25 PRACTICE CREMATION AND MORTUARY SCIENCE SHALL BE REVIEWED
26 PURSUANT TO SECTION 24-34-104, C.R.S.

27 **SECTION 11.** 24-34-104 (46), Colorado Revised Statutes, is

1 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2 **24-34-104. General assembly review of regulatory agencies**
3 **and functions for termination, continuation, or reestablishment.**

4 (46) The following agencies, functions, or both, shall terminate on July
5 1, 2015:

6 (k) THE REGULATION OF PERSONS REGISTERED TO PRACTICE
7 MORTUARY SCIENCE PURSUANT TO SECTIONS 12-54-110 AND 12-54-111,
8 C.R.S., AND CREMATION PURSUANT TO SECTIONS 12-54-303 AND
9 12-54-304, C.R.S., AND THE ADMINISTRATION THEREOF PURSUANT TO
10 PART 4 OF ARTICLE 54 OF TITLE 12, C.R.S.

11 **SECTION 12. Effective date - applicability.** This act shall take
12 effect July 1, 2009, and shall apply to offenses committed on or after said
13 date.

14 **SECTION 13. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.